



STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

April 23, 2024

Elizabeth Haddix
Senior Counsel
American Oversight
elizabeth.haddix@americanoversight.org
Via Email only

Dear Ms. Haddix:

I am writing in response to your request for records, which was emailed on March 8, 2024. Specifically, your request outlined several categories of records/documentation/information collectively associated with record retention and record request production.

As an initial matter, please be advised that it is the long-standing position of the New Hampshire Department of Justice that RSA 91-A does not apply to the Governor's Office. Our office responds to such requests as inquiries pursuant to Part I, Article 8 of the New Hampshire Constitution to the extent applicable and subject to all privileges and defenses under New Hampshire law. While this office is therefore not subject to the 5-day timeline provided for in RSA 91-A, we endeavor to respond to all requests as soon as possible.

After reviewing your request please find the following responses below in bold:

1. The Office's policy or policies governing the retention, destruction and/or disposal of governmental records, including emails, texts and other direct messages (such as those in iMessage, WhatsApp, Signal, or Twitter.com), voicemail messages, instant messaging systems such as Lync or ICQ, and shared message systems such as Slack.

See the attached document on record retention/disposal. Note, as we discussed on the initial call, the policy does not specify retention (or ultimate obsolescence of) record response productions individually as the document instead speaks to "obsolescence." In practice, record response productions are held for 90 days.

2. Records describing or reflecting any internal protocols for responding to Right-to-Know requests. Records responsive to this part of my request may include, but are not limited to, those identifying search procedures for the direct and shared message systems referenced in (1) above.

Nothing deemed responsive as we do not have records describing the protocol/practice.

3. Records describing or reflecting any electronic software or platforms used by the

the Office to search for records responsive to Right-to-Know requests, including but not limited to user manuals, policy or process documents, or other instructions or training materials.

Thank you for your attempts at clarifying this portion of the request. In terms of a response, the software utilized (i.e. MS Windows/Outlook, MS Office Suite, MS Sharepoint) offers native search functionality.

4. Records describing the storage capacity or storage capability for records generated by the Office, including technical documents and policy or procedure documents.

Nothing deemed responsive. We are not in possession of an aggregate inventory of capacity (digital/physical) for the Office.

5. All records reflecting the Office's policies and procedures for keeping and maintaining governmental records in its custody.

See response to question #1.

Sincerely,



Rudolph W. Ogden III
Legal Counsel

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Email and Document Retention and Disposal Policy

Emails

For purposes of maintaining efficiency and economy, emails should be retained for no longer than 30 days. However, no emails may be deleted if they may potentially be responsive to a pending Right to Know request. All questions as to whether to delete a specific email or set of emails should be directed to Legal Counsel and, if necessary, the Chief of Staff.

Emails containing invitations to the Governor or that involve constituent case work should be retained until they are obsolete.

Hard Documents

A hard or digital copy of all final drafts of official business documents (memos, statements, executive orders, etc.) produced by the office should be retained for no longer than 30 days unless a longer retention period is necessary for either historical or reference purposes. The decision on whether to retain copies of final drafts longer than 30 days may be made by the drafter. **If a document is signed by the Governor, a copy of the document should be retained until permission to discard is received from Legal Counsel and the Chief of Staff.** All final drafts must be retained if they are potentially responsive to a pending Right to Know request.

Drafts and notes may be discarded at any time, provided that no drafts and notes may be discarded if they are potentially responsive to a pending Right to Know request. All potentially sensitive documents are to be discarded by shredding only.

Hard copy documents that are invitations to the Governor or that involve constituent case work should be retained until they are obsolete.

All questions as to whether a hard copy document is potentially sensitive or should be retained should be directed to Legal Counsel and, if necessary, the Chief of Staff.

Text Messages

Work related text messages may be deleted at any time and may not be retained for longer than 30 days, provided that no work related text messages may be deleted if they may potentially be responsive to a pending Right to Know request. All questions as to whether to delete a specific

text message or set of text messages should be directed to Legal Counsel and, if necessary, the Chief of Staff.

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